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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,399	07/03/2003	Louis Brown Abrams	4811-18	5901
22442	7590	10/19/2005	EXAMINER	
SHERIDAN ROSS PC 1560 BROADWAY SUITE 1200 DENVER, CO 80202			JUSKA, CHERYL ANN	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/614,399	ABRAMS, LOUIS BROWN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Cheryl Juska	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 01 August 2005.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 27-48 is/are pending in the application.

4a) Of the above claim(s) 48 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 27-47 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 11/03-12/04.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group I, claims 27-47 in the paper filed August 1, 2005, is acknowledged. Claim 48 is hereby withdrawn as non-elected.

### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claim 27 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 3, 9, 18, 20, 22, 28, 40, 46-48, and 54-57 of U.S. Patent No. 6,929,771. Although the conflicting claims are not identical, they are not patentably distinct from each other because the scope of the present claim encompasses the patented claims.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 27 and 46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 27 is rejected as indefinite due to the limitation “wherein the thermosetting adhesive film is thermoset before the forming step.” As noted by applicant in the specification, a thermosetting material is one that is irreversibly set (i.e., crosslinked) upon application of heat thereto. As such, it is unclear how the thermosetting adhesive film can be thermoset (i.e., unable to be thermoformed) before it is subjected to the three dimensional shaping or forming step.

7. Claim 46 is indefinite because it of the limitation wherein “the backing film is nonwoven.” Where applicant acts as his or her own lexicographer to specifically define a term of a claim contrary to its ordinary meaning, the written description must clearly redefine the claim term and set forth the uncommon definition so as to put one reasonably skilled in the art on notice that the applicant intended to so redefine that claim term. *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999). The term “nonwoven” is used by the claim and the specification to be a film-like material (i.e., “not a textile or a fabric”) (specification, page 22, lines 10-13), while the accepted meaning of nonwoven is limited to textile materials (i.e., comprising fibers), such as fabrics. The term is indefinite because the specification does not clearly redefine the term.

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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9. Claims 27-47 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

10. Claim 27 is rejected as containing new matter due to the limitation "wherein the thermosetting adhesive film is thermoset before the forming step." As discussed above, it is unclear how the thermosetting adhesive film can be thermoset (i.e., unable to be thermoformed) before it is subjected to the three dimensional forming step. The specification teaches thermosetting adhesive is at least partially and typically, fully activated (i.e., thermoset) before positioning the mold insert into a mold, so as to follow the contours of the mold. This is contrary to what applicant is presently claiming. Specifically, applicant is claiming the thermosetting adhesive is thermoset before being shaped to fit the mold, rather than after it is shaped but before it is placed in the mold for later injection of resin to form a molded article having a flocked surface. The specification appears to teach that the adhesive is thermoset during the 3-D shaping or forming step rather than prior to it as presently claimed. Thus, claims 27-47 are rejected as containing new matter.

11. Claim 34 limits both the thermosetting adhesive layer and the backing film to being a cast and//or extruded, continuous film. While the specification teaches the backing film is in the form of a cast or extruded continuous film (page 22, line 11), the specification does not clearly disclose that the thermosetting adhesive layer is also. The closest teaching is that the adhesive

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film 14 and the backing film 104 are calendered, extruded or coextruded films (specification, page 23, lines 1-2). Thus, claim 34 is rejected as containing new matter.

12. Claim 35 limits the thermosetting adhesive layer to not being a fabric. While the specification limits the backing film to being a nonwoven and not a textile or a fabric, the specification does not teach the negative limitation that the thermosetting adhesive layer is not a fabric. Therefore, claim 35 is rejected as containing new matter.

13. Claim 37 is also rejected as containing new matter because the specification as originally filed does not support the claim limitation wherein the mold insert comprises a flocked area surrounded at least substantially by an unflocked area of the backing film.

### ***Conclusion***

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Juska whose telephone number is 571-272-1477. The examiner can normally be reached on Monday-Friday 10am-6pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached at 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



CHERYL A. JUSKA  
PRIMARY EXAMINER

cj

October 17, 2005